

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SSO-00
INRE-00 /036 R

DRAFTED BY EB/TRA:JRATWOOD:BD
APPROVED BY EB/TRA:JRATWOOD
EUR/WE:EBEIGEL

-----102249 290043Z /17
O 290015Z APR 78
FM SECSTATE WASHDC
TO AMEMBASSY PARIS IMMEDIATE
INFO AMEMBASSY BERN IMMEDIATE
AMEMBASSY BONN IMMEDIATE
AMEMBASSY LONDON IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, FR

SUBJECT: CIVAIR: PAN AM CHANGE OF GAUGE

REF: PARIS 13887

1. FRENCH EMBASSY (DU CHAFFAUT) DELIVERED DIPLOMATIC NOTE
TO DEPARTMENT AT 4:00 PM WASHINGTON TIME. TEXT OF NOTE
APPEARS CONSISTENT WITH ENGLISH TRANSLATION OF DRAFT
PROVIDED IN REFTEL EXCEPT FOR FINAL CLAUSE. INSTEAD OF
PHRASE BEGINNING "IN PARTICULAR," NOTE PROVIDED TO
DEPARTMENT PROVIDES "SE RESERVENT DE PRENDRE TOUTE MESURE
QU'ELLES JUGERAIENT APPROPRIEE COMPTE TENU DE L'EXECUTION
PAR LA PAN AM D'UN VOL NON AUTORISE."

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2- DU CHAFFAUT MADE ESSENTIALLY SAME ORAL POINTS
DESCRIBED BY REFTEL AS HAVING BEEN MADE BY CLAUDE
LAFONTAINE. DEPARTMENT (ATWOOD) EXPRESSED PUZZLEMENT AS
TO POINT THAT THE ISSUE HAD NOT BEEN FULLY DISCUSSED; IN
THAT LEGAL ARGUMENTS HAD BEEN EXCHANGED IN WRITING AND
ISSUES HAD BEEN DISCUSSED BETWEEN BOTH SIDES FOR A NUMBER
OF WEEKS. IN PARTICULAR, ATWOOD HAD TWICE DISCUSSED THIS

ISSUE WITH FRENCH OFFICIALS IN PARIS, BUT WE SAW NO INDICATIONS THAT FRENCH WERE PREPARED TO RETHINK THEIR POSITION.

3. DEPARTMENT ARGUED THAT FRENCH ANALOGY TO DOMESTIC US LEGISLATION RE CONCORDE WAS NOT APT. THE ONLY RELEVANT FRENCH DOMESTIC LAW BEING RAISED WAS PROVISION RE APPROVAL OF SCHEDULES. OBVIOUSLY APPROVAL WAS PURELY MINISTERIAL ACT IF, AS WE MAINTAINED, BILATERAL ENCOMPASSED PROPOSED PAN AM OPERATION. CONCORDE ISSUES, ON OTHER HAND, RELATE TO SUBSTANTIVELY IMPORTANT DOMESTIC LEGISLATION ON ISSUES OUTSIDE SCOPE OF BILATERAL. IN SHORT, FRENCH COULD NOT RAISE DOMESTIC LAW ISSUE AS AN ARGUMENT SEPARATE FROM THEIR CLAIM UNDER BILATERAL; THE TWO ARGUMENTS WERE REALLY ONE.

4. ATWOOD REITERATED THE POINT THAT FRENCH COULD ALLOW OPERATION TO COMMENCE WITHOUT PREJUDICE TO ITS POSITION. IN COMPARABLE SITUATION, U.S. HAD APPARENTLY ACQUIESCED IN AIR FRANCE'S OPERATION OF TORONTO-LOS ANGELES BLIND SECTOR FOR SOME MONTHS WHILE PERMISSABILITY OF THAT OPERATION WAS BEING DEBATED. (ATWOOD EMPHASIZED THAT THIS WAS HIS UNDERSTANDING OF TORONTO-LOS ANGELES FACTS BUT HE HAD BEEN UNABLE TO PERSONALLY CONFIRM THOSE FACTS.)

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5. DEPARTMENT EMPHASIZED THAT U.S. WAS NOT LOOKING FOR FIGHT WITH FRANCE, BUT INSTEAD HAD NO ALTERNATIVE BUT TO STAND FORCEFULLY BY ITS POSITION. IF WE BACKED DOWN, MANY GOVERNMENTS COULD BE EXPECTED TO CHALLENGE THIRD-COUNTRY CHANGES OF GAUGE ON FLIGHTS PASSING THROUGH THEIR TERRITORIES. THIS WOULD BE INTOLERABLE, PARTICULARLY IN LIGHT OF OUR SUCCESS OVER MANY YEARS IN ESTABLISHING THE LEGAL PRINCIPLE WHICH THE FRENCH NOW CHALLENGE.

6. PAN AM HEADQUARTERS INDICATES NO CHANGE IN ITS PLANS TO OPERATE MONDAY. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR ROUTES, DIPLOMATIC NOTES, TRANSLATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 29 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE109519
Document Source: CORE
Document Unique ID: 00
Drafter: JRATWOOD:BD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780183-0189
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978042/aaaaaaxl.tel
Line Count: 106
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 1e72bca7-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 PARIS 13887
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2855662
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: PAN AM CHANGE OF GAUGE
TAGS: EAIR, FR
To: PARIS
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/1e72bca7-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014